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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

ROBERT BARROS, an individual,

Plaintiff,

v.

SAN DIEGO AMATEUR HOCKEY CLUB,  
a California corporation; SAN DIEGO  
JUNIOR GULLS HOCKEY, an entity of  
form unknown; and DOES 1 through 10,

Defendants.

Case No.: '16CV0896 JAH JLB

PLAINTIFF'S COMPLAINT FOR  
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

Robert Barros, by and through his undersigned attorneys, hereby prays to this  
honorable Court for relief based on the following:

**JURISDICTION AND VENUE**

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101  
*et seq.*
2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and  
1338 (a) and (b).

1 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and  
2 1400(a) in that this is the judicial district in which a substantial part of the acts and  
3 omissions giving rise to the claims occurred.

4 **PARTIES**

5 4. Plaintiff ROBERT BARROS (“BARROS”) is an individual residing in  
6 Chula Vista, CA 91911.

7 5. Plaintiff is informed and believes and thereon alleges that Defendant SAN  
8 DIEGO AMATEUR HOCKEY CLUB (“SDAHC”) is a California corporation, with  
9 its principal place of business located at 555 N. Tulip St., Escondido, CA 92025.

10 6. Plaintiff is informed and believes and thereon alleges that Defendant SAN  
11 DIEGO JUNIOR GULLS HOCKEY (“JUNIOR GULLS”) is an entity of form  
12 unknown, with its principal place of business located at 555 N. Tulip St., Escondido,  
13 CA 92025.

14 7. Plaintiff is informed and believes and thereon alleges that Defendants  
15 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed  
16 Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights,  
17 or have engaged in one or more of the wrongful practices alleged herein. The true  
18 names, whether corporate, individual or otherwise, of Defendants 1 through 10,  
19 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants  
20 by such fictitious names, and will seek leave to amend this Complaint to show their  
21 true names and capacities when same have been ascertained.

22 8. Plaintiff is informed and believes and thereon alleges that at all times  
23 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
24 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
25 at all times acting within the scope of such agency, affiliation, alter-ego relationship  
26 and/or employment; and actively participated in or subsequently ratified and/or  
27 adopted each of the acts or conduct alleged, with full knowledge of all the facts and  
28

1 circumstances, including, but not limited to, full knowledge of each violation of  
2 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

3 **COPYRIGHT INFRINGEMENT CLAIMS**

4 9. Plaintiff owns an original two-dimensional artwork entitled "San Diego  
5 Gulls" ("Subject Design"), which has been registered with the United States  
6 Copyright Office.

7 10. Prior to the acts complained of herein, Plaintiff licensed the Subject Design  
8 to the San Diego Gulls professional hockey team in 1995 (a separate and unrelated  
9 entity from SDAHC and JUNIOR GULLS). The San Diego Gulls then used the  
10 Subject Design as their team's logo, widely disseminating the Subject Design  
11 through multiple uses, including, but not limited to, advertising and sales of  
12 merchandise bearing the Subject Design.

13 11. Plaintiff is informed and believes and thereon alleges that following its  
14 distribution of Subject Design, SDAHC, JUNIOR GULLS, DOE Defendants, and  
15 each of them distributed a design which is substantially similar to Subject Design  
16 (hereinafter "Offending Design") without Plaintiff's authorization through multiple  
17 avenues, including, but not limited to SDAHC and JUNIOR GULLS' Website  
18 (<http://jrgullshockey.com/>).

19 12. An image of Subject Design and an image of Offending Design are set forth  
20 hereinbelow:

21 ///

22 ///

23 ///

**Subject Design**



**Offending Design**



1           13. Plaintiff is informed and believes and thereon alleges that Defendants, and  
2 each of them, had access to the Subject Design, including, without limitation, by  
3 viewing the logo of the San Diego Gulls professional hockey team.

4           14. Plaintiff is informed and believes and thereon alleges that Defendants, and  
5 each of them, infringed Plaintiff's copyright by creating, making and/or developing  
6 directly infringing and/or derivative works from Subject Design, by utilizing the  
7 Offending Design as the JUNIOR GULLS logo, and by producing, distributing  
8 and/or selling merchandise bearing the Offending Design.

9           15. Due to Defendants', and each of their, acts of infringement, Plaintiff has  
10 suffered damages in an amount to be established at trial.

11           16. Due to Defendants', and each of their, acts of copyright infringement as  
12 alleged herein, Defendants, and each of them, have obtained profits they would not  
13 otherwise have realized but for their infringement of Subject Design. As such,  
14 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits  
15 attributable to the infringement of Subject Design in an amount to be established at  
16 trial.

17           17. Plaintiff is informed and believes and thereon alleges that Defendants, and  
18 each of them, have committed copyright infringement with actual or constructive  
19 knowledge of Plaintiff's rights such that said acts of copyright infringement were,  
20 and continue to be, willful, intentional and malicious.

21                           **PRAYER FOR RELIEF**

22           Wherefore, Plaintiff prays for judgment as follows:

- 23           a. That Defendants—each of them—and their respective agents and  
24 servants be enjoined from infringing Plaintiff's copyrights in the Subject  
25 Design, including without limitation an order requiring Defendants, and  
26 each of them, to cease any use of the Offending Design, in whole or in  
27 part;

- 1           b. That Defendants—each of them—and their respective agents and  
2           servants be enjoined from importing, manufacturing, distributing,  
3           offering for sale, selling or otherwise trafficking in any product that  
4           infringes Plaintiff’s copyrights in Subject Design;
- 5           c. That Plaintiff be awarded all profits of Defendants, and each of them,  
6           plus all losses of Plaintiff, the exact sum to be proven at the time of trial,  
7           or, if elected before final judgment, statutory damages as available under  
8           the Copyright Act, 17 U.S.C. § 101 et seq.;
- 9           d. That Plaintiff be awarded its attorneys’ fees as available under the  
10          Copyright Act U.S.C. § 101 et seq.;
- 11          e. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 12          f. That Plaintiff be awarded the costs of this action; and
- 13          g. That Plaintiff be awarded such further legal and equitable relief as the  
14          Court deems proper.

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16           Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.  
17 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

18 Dated: April 7, 2016

DONIGER/BURROUGHS

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20 By: /s/ Stephen M. Doniger  
21 Stephen M. Doniger, Esq.  
22 Howard S. Han, Esq.  
23 Attorneys for Plaintiff  
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